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California Regional Water Quality Control Board

Los Angeles Region

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Gray Davis
Governor

Los Angeles Regional Water Quality Control Board

Minutes of the July 8, 1999 Board Meeting

INTRODUCTION

1. The meeting was called to order by Chairman Nahai at 9:10 a.m.

Board Members Present

Jack Coe, Francine Diamond, Michael Keston, Marilyn Lyon, H. David Nahai

Board Members Absent

None

Staff Present

Dennis Dickerson, Jorge Leon, Deborah Smith, Dennis Dasker, Wendy Phillips, Jonathan Bishop, David Bacharowski, Raymond Jay, Jack Price, David Bacharowski, Michael Lyons, Bryan Schweickert, Shirley Birosik, Mark Pumford, Winnie Jesena, Wayne Chiou, Ronji Harris, and Arthur Heath.

Others Present

Mary Jane Forster, SWRCB
Steve Fleischli, Santa Monica Baykeeper
Debra O'Hare, Property Owner
Steven Kristovich, Munger, Tolles & Olson
Norm Buehring, Las Virgenes MWD
Dr. Randal Orton, Las Virgenes MWD
Tary Cody, Attorney
Glen Peterson, Director, LVMWD
Ann Dorgelo, Director, LVMWD
Ken Rufener, Director LVMWD
Gordon Knopp, President, LVMWD
Joe Deakin, Triunfo Sanitation District
Brian Boudnoau, Malibu Valley Farms, Inc.
Jacqueline Lambrichts, FOLAR
Heather Merenda, City of Calabasas
Steve Sabre, Calleguas MWD
Lou Malone, New Millennium Homes

Mitzy Taggart, Heal the Bay
David Hubbard, Hugo Neu-Proler
Ken Erlich, Jeffer, Mangels, et al.
David Leu, Clayton Group
Brad Glassman, Las Virgenes MWD
Lawrence Jackson, LVMWD
Gene Talmadge, LVMWD
Jacqy Gamble, LVMWD
John Mundy, LVMWD
Arlene Post, LVMWD
Bob Owens, Kennedy/Jenks Consultants

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July 8, 1999

Pledge of Allegiance.

1. Roll Call.

A roll call was taken with all members present.

2. Order of Agenda.

The Executive Officer, Dennis Dickerson, recommended the following changes to the agenda:

- *Remove item 8.2 from the agenda due to ACL being rescinded since property transfer has been resolved by the new owner submitting an annual report and the old owner submitting a notice of termination.*

3. Board Member Ex Parte Communication Disclosure.

Chairman Nahai asked if any Board Member had any communication that needed to be disclosed. All members said no.

Uncontested Items Calendar.

Public comment cards were received for items 6.2, 6.3 and 10. There was a motion to adopt the consent calendar as items 6.1, 6.4, and 7.1.

MOTION: By Ms. Diamond, seconded by Ms. Lyon, and approved on a voice vote.

PUBLIC FORUM

5. Public Forum.

The following persons submitted speaker cards and gave presentations to the Board:

1. *Steve Fleischli, Santa Monica BayKeeper indicated that he had taken the time to write an editorial for the Los Angeles Times praising the L.A. Regional Board and Board staff for the improvement of the enforcement program over the past year.*
2. *Debra O'Hare, a private property owner expressed concerns over the Board's process for noticing public hearings.*

CONTESTED ITEMS

The following items were removed from the consent calendar and heard separately. The Executive Office Secretary read the opening statement and the Chairman opened the public hearing and administered the oath to those testifying before the Board on the contested items.

July 8, 1999

ITEM 6.2: Equilon Enterprises LLC (Shell Station), Culver City

Staff member David Bacharowski made a presentation summarizing the analysis of tentative waste discharge requirements and the NPDES for Equilon LLC for the cleanup of gasoline contamination. He gave a number of options on how to proceed. He concluded that staff's recommendation is to adopt the waste requirement as is as an interim requirement, thus allowing Equilon the time necessary to proceed with cleanup starting on November 1, 1999.

Steven Kristovich spoke on behalf of Equilon LLC reiterating the request for a postponement of the board's decision on the application until the December board meeting.

After questions and comments from the Board members, and Dennis Dickerson, Chairman Nahai closed the public hearing and opened it up for discussion.

A motion was made to adopt the permit as recommended by staff while Shell Equilon proceeds with site-specific objectives.

MOTION: By Ms. Diamond, seconded by Ms. Lyon, and approved on a voice vote.

The Board paused for a break at 10:05, and reconvened at 10:22.

Item 6.3: Las Virgenes Municipal Water District (Tapia Water Reclamation Plant) (Discharge to LA River Watershed), Calabasas

Jorge Leon, Board counsel indicated that Mr. Coe would be abstaining from voting on this item, due to his involvement with Boyle Engineering, the Engineering Firm for the discharger.

Dennis Dasker gave a presentation to the Board asking they adopt the three-year permit, stating it is a last resort discharge to the Los Angeles River system.

Mr. Norm Buehring, Las Virgenes Municipal Water District indicated that everything possible has been done to avoid discharge into Malibu Creek in 1999, and it is unavoidable to discharge without the 005 temporary discharge.

Dr. Randall Orton, Las Virgenes Municipal Water District, gave a presentation indicating that he initiated a customer incentive program, and explained the environmental issue's four main concerns are: erosion, aquatic vertebrates, algae, and beneficial uses.

Tari Cody, Counsel for Las Virgenes Municipal Water District, expressed that they support staff's recommendation and asked that the Board adopt the permit.



July 8, 1999

Glenn Peterson, Director, Las Virgenes Municipal Water District stated that LVMWD presently has the highest rates for sewage, and whatever interim plan is adopted will raise rates, and he asks that the Board use common sense with it's decisions.

Ann Dorgelo, Las Virgenes Board of Directors, addressed the Board asking them to adopt the permit as recommended by staff.

Ken Rufener, Director, Las Virgenes Municipal Water District, addressed the Board asking them to adopt the permit as recommended by staff.

Gordon Knopp, President of the Board, Las Virgenes Municipal Water District, addressed the Board to share his concerns regarding the permit requirements and asked the Board to consider modifying the requirements.

Joe Deakin, Triunfo Sanitation District, addressed the Board asking them to adopt the permit as recommended by staff.

Debra O'Hare, Oak Park Representative, addressed the Board opposing the discharge to Dry Canyon Creek.

Brian Boudnoau, Landowner, addressed the Board asking them to adopt the permit as recommended by staff.

Heather Merenda, City of Calabasas, addressed the Board sharing her support of the 005 discharge.

Lou Malone, Member, State Voters Advisory Group, addressed the Board sharing his support of the 005 discharge.

Jacqueline Lambrichts, FOLAR, addressed the Board to share her concerns with the biological survey of Las Virgenes and the impact to the Dry Canyon Creek.

Steve Fleishli, Santa Monica BayKeeper, shared his concerns of the nutrient issues regarding the Dry Canyon Creek. He expressed his opposition of the 005 discharge and asked the Board not to adopt the permit.

Mitzy Taggart, Heal the Bay, addressed the Board sharing similar concerns as Steve Fleishli and asked the Board not to adopt the permit.

Staff Member Dennis Dasker and Norm Buehring (LVMWD) answered questions of the Board. The Chairman closed the public hearing. After discussion of the Board, there was a motion to adopt the tentative permit with the following amendments as recommended by staff:

A) The antidegradation language be included as part of the findings; B) language be added indicating that the 005 discharge will be a last resort and that prior to discharging, the

July 8, 1999

discharger will have to satisfy the Executive Officer that all other alternatives have been exhausted; C) add the monitoring language paragraph to the monitoring requirements which will include a before-and-after monitoring program with respect to algae, nutrients, aquatic species, and water quality; D) the discharge authorization is to be consistent with the discharge prohibition period in the Malibu Creek permit; E) modification of the reopener clause; and F) reduce the term of the permit to one year from July 8, 1999.

MOTION: By Ms. Lyon, seconded by Mr. Keston, and approved by a voice vote. Mr. Coe abstained from voting.

Dennis Dickerson asked the Chairman if Item 9 be heard before Item 8 to allow staff time to return to make a presentation.

9. Consideration of a Resolution Authorizing the Executive Officer to Enter into an Agreement for Supplemental Environmental Projects (SEPs) with the Las Virgenes Municipal Water District.

Dennis Dickerson gave a presentation and asked the Board to adopt a Resolution authorizing him to enter into a SEP Agreement with the Las Virgenes Municipal Water District resolving Complaint Nos. 98-07 and 98-091 for Administrative Civil Liability.

MOTION: By Ms. Lyon, seconded by Ms. Diamond, and approved on a voice vote. Mr. Coe abstained from voting.

Enforcement Issues

8. Administrative Civil Liability (ACL) Complaint Against Danny's Auto Dismantling, Wilmington, for Failing to Submit Annual Reports.

The Secretary read the opening statement, the Chairman opened the hearing, and administered the oath for those testifying before the Board.

Bryan Schweickert gave a staff presentation providing background information and asked the Board to affirm the ACL penalty in the amount of \$5,250.00.

The discharger was present but did not testify because he could not speak English, so the Chairman administered the oath to the discharger's son Mr. Salvador.

Mr. Salvador (son and interpreter for discharger) indicated that his father (discharger) had received the letters, but that he was confused and did not understand what the Board was asking him to do. He stated that he had paid \$250 for the permit, and thought that the \$250 was all that he had to pay, and that the discharger was experiencing financial hardships and could not afford to pay the fines.

July 8, 1999

Mr. Dickerson stated to the Chairman and members of the Board that AB 2019 sets a minimum penalty of \$1,000 per each annual report that is not submitted. He stated a lower penalty would not be a problem.

After discussion of the Board, a motion was made to set the penalty in the amount of \$2,600 (to be paid at \$100.00 per month).

MOTION: By Mr. Nahai, seconded by Ms. Lyon, and approved on a voice vote.

PUBLIC HEARING

10. Evidentiary Hearing Regarding Hugo Neu-Proler Company Pursuant to SWRCB Order WQ 99-03, was directed by SWRCB and was the first of it's kind to be heard by this Board.

The Board conducted the evidentiary hearing to receive information regarding the facility. Staff member Michael Lyons asked the Board to provide direction to staff regarding action, if any, to be taken.

The Secretary read the opening statement, the Chairman opened the hearing, and administered the oath for those testifying before the Board.

Mr. Dickerson presented opening remarks by stating the Board's requirement to conduct the hearing pursuant to an order by the State Water Resources Board to a petition filed against this Regional Board by the International Longshore and Warehouse Union, (I.L.W.U). He asked the Board to receive evidence to the allegations of Hugo Neu-Proler Company. He stated that although staff received letters from I.L.W.U. and no enforcement action was taken, this was no indication that the letters were or were not without merit, but rather that there is limited enforcement staff available which led to the lack of response, and he takes full responsibility for that oversight.

Michael Lyons gave a presentation showing slides of various areas of the site, and provided background information. He indicated that when the union filed their petition against Hugo Neu-Proler in 1999, the Board contracted with the Department of Fish and Game to do a special study of contamination in the vicinity of Hugo Neu-Proler. The study concluded that there were water quality issues, namely that there were PCB concentrations in the water and sediments, but the levels were decreasing.

Mr. Ken Ehrlich, Legal Counsel for Hugo Neu-Proler, gave a presentation outlining the allegations against Hugo Neu-Proler Company, in the context of the petition by the Union, and the site operations. He said that the company had undergone discussions with Regional Board staff and reevaluated it's operation under the permit, proposing various improvements for it's site, including sampling activities and sampling for parameters above and beyond what is required by the permit.

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July 8, 1999

Mr. David Hubbard, I.L.W.U. expressed that the petition and the bulk of materials sent to the State Board related to two things only: the shredder fluff, and the bulk steel discharges, both of which he elaborated on, and stated that they are continuous problems.

Mitzy Taggart, Heal the Bay made a brief statement that she had visited the site twice in the last four years, and the site is an amazing place to see. She indicated that none of the Hugo Neu-Proler slides showed what the site really looked like, and that the process was a messy one. For this reason she thinks the facility is really a potentially very large source of a host of different contaminants to water in that area. As part of their tour, they outlined their plan for implementing best management practices, and putting together a storm water collection and treatment process. Ms. Taggart urged the Board to do everything they can to implement all the storm water plans this facility has put together as soon as possible.

Dennis Dickerson concluded by saying there are some violations of the Basin Plan Amendment, and that an Administrative Civil Liability penalty to cover those particular violations may take place. However, right now he does not know to what degree to pursue a penalty action. He indicated that he welcomed the Board's guidance regarding this matter.

After discussion, the Board directed staff to look into this matter and report their findings to the Board at a future Board Meeting.

INFORMATION ITEMS

11. Status Report on the Ventura County Municipal Stormwater Program.

This item was not heard due to time shortage.

12. Overview of FY 1999-2000 Targeted Watershed: The San Gabriel River Watershed.

This item was not heard due to time shortage.

13. Report of Cost Benefit Task Committee.

No report was made on this item.

14. Board Member Communications.

Nothing was reported during this item.

15. Executive Officer's Report.

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July 8, 1999

Nothing was reported during this item.

CLOSED SESSION

16. Closed Session.

There was a closed session conducted during the lunch break to discuss litigation matters.

17. Adjournment of Current Meeting.

The meeting adjourned at 4:35 p.m. The next regular meeting is on August 12, 1999 at the City of Camarillo Counsel Chambers, 601 Carmen Drive, Camarillo, CA.

Minutes adopted at the _____ Regular Board Meeting as submitted/amended.

Written and submitted by: _____

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